

Introduction

Chapter 1

LOCAL REGULATORY CONTEXT

The Tulare County General Plan Update 2030 was adopted on August 28, 2012. As part of the General Plan an EIR was prepared as was a background report. The General Plan background report contained contextual environmental analysis for the General Plan. The Housing Element for 2009-2014 was adopted on May 8, 2012, and certified by State of California Department of Housing and Community Development on June 1, 2012.

SCOPE AND METHODOLOGY

The County of Tulare has determined that a project level EIR fulfills the requirements of CEQA and is the appropriate level evaluation to address the potential environmental impacts of the proposed project. A project level EIR is described in Section 15161 of the State CEQA Guidelines as one that examines the environmental impacts of a specific development project. A project level EIR must examine all phases of the project, including planning, construction, and operation.

This document addresses environmental impacts to the level that they can be assessed without undue speculation (CEQA Guidelines Section 15145). This *Draft Environmental Impact Report (DEIR)* acknowledges this uncertainty and incorporates these realities into the methodology to evaluate the environmental effects of the Plan, given its long term planning horizon. The degree of specificity in an EIR corresponds to the degree of specificity of the underlying activity being evaluated (CEQA Guidelines Section 15146). Also, the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project (CEQA Guidelines Sections 15151 and 15204(a)).

CEQA Guidelines Section 15002 (a) specifies that, “[t]he basic purposes of CEQA are to:

- (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.
- (2) Identify the ways that environmental damage can be avoided or significantly reduced.
- (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.”¹

¹ 2012 CEQA Guidelines, Section 15002 (a)

CEQA Guidelines Section 15002 (f) specifies that, “[a]n Environmental Impact Report (EIR) is the public document used by the governmental agency to analyze the significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid the possible environmental damage... An EIR is prepared when the public agency finds substantial evidence that the project may have a significant effect on the environment.... A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project Further, when an EIR identifies a significant effect, the government agency approving the project must make findings on whether the adverse environmental effects have been substantially reduced or if not, why not.”²

Pursuant to CEQA Guidelines Section 15021 Duty to Minimize Environmental Damage and Balance Competing Public Objectives:

- “(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.
- (1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
 - (2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.
- (b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.
- (c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
- (d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.”³

IDENTIFICATION OF POTENTIALLY SIGNIFICANT IMPACTS

CEQA Guidelines Section 15002 (h) addresses potentially significant impacts, to wit, “CEQA requires more than merely preparing environmental documents. The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:

- (1) Changing a proposed project
- (2) Imposing conditions on the approval of the project;
- (3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse

² 2012 CEQA Guidelines, Section 15002 (f)

³ Ibid., Section 15021

- changes;
- (4) Choosing an alternative way of meeting the same need;
 - (5) Disapproving the project;
 - (6) Finding that changing or altering the project is not feasible;
 - (7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.”⁴ (See Chapter 7)

This *Draft EIR* identifies potentially significant impacts that would be anticipated to result from implementation of the proposed Project. Significant impacts are defined as a “substantial or potentially substantial, adverse change in the environment” (Public Resources Code Section 21068). Significant impacts must be determined by applying explicit significance criteria to compare the future Plan conditions to the existing environmental setting (CEQA Guidelines Section 15126.2(a)).

The existing setting is described in detail in each resource section of Chapter 3 of this document and represents the most recent, reliable, and representative data to describe current regional conditions. The criteria for determining significance are also included in each resource section in Chapter 3 of this document.

CONSIDERATION OF SIGNIFICANT IMPACTS

Pursuant to CEQA Guidelines Section 15126.2, “[a]n EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected.”⁵

MITIGATION MEASURES

CEQA Guidelines Section 15126.4 specifies that, “[a]n EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

⁴ 2012 CEQA Guidelines, Section 15002 (h)

⁵ *Ibid.*, Section 15126.2

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- (A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.
- (B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.
- (C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant...
- (D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)”⁶

“Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design... Mitigation measures are not required for effects which are not found to be significant... Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

- (A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and
- (B) The mitigation measure must be “roughly proportional” to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be “roughly proportional” to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.”⁷

⁶ 2012 CEQA Guidelines, Section 15126.4

⁷ Ibid.

ORGANIZATION OF THE EIR

CHAPTER 1

Chapter 1 of the *Draft EIR* provides a brief introduction to the Environmental Analysis Required by the California Environmental Quality Act (CEQA).

CHAPTER 2

Chapter 2 of the *Draft EIR* describes the proposed Project. The chapter also includes the objectives of the proposed Project. The environmental setting is described and the regulatory context within which the proposed project is evaluated is outlined.

CHAPTER 3

This Chapter includes the Environmental Analysis by topic, that is, each resource. Within each topic, the analysis includes the following:

Summary of Findings

Each chapter notes a summary of findings.

Introduction

Each chapter will begin with a summary of impacts, pertinent CEQA requirements, applicable definitions and/or acronyms, and thresholds of significance.

Environmental Setting

Each environmental analysis topic in Chapter 3 will outline the environmental setting for that topic. In addition, methodology is explained when complex analysis is required.

Regulatory Setting

Each environmental analysis topic in Chapter 3 will outline the regulatory setting for that topic.

Project Impact Analysis

Each evaluation criteria will be reviewed for project specific potential impacts.

Cumulative Impact Analysis

Each evaluation criteria will be reviewed for cumulative potential impacts.

Mitigation Measures

Mitigation Measures will be proposed as deemed appropriate.

Conclusion

Each conclusion will outline whether recommended mitigation measures will, based on the impact evaluation criteria, substantially reduce or eliminate potentially significant environmental impacts. If impacts cannot be mitigated, unavoidable significant impacts will be identified.

Definitions/Acronyms

Some sub-chapters of Chapter 3 will have appropriate definitions and/or acronyms.

References

Reference documents used in each chapter are listed at the end of each sub-chapter.

CHAPTER 4

Chapter 4 summarizes the cumulative impacts addressed in Chapter 3.

CHAPTER 5

Chapter 5 describes and evaluates alternatives to the proposed Project. The proposed Project is compared to each alternative, and the potential environmental impacts of each are analyzed.

CHAPTER 6

Chapter 6 evaluates or describes CEQA-required subject areas: Economic Effects, Social Effects, and Growth Inducement.

CHAPTER 7

Chapter 7 evaluates or describes CEQA-required subject areas: Environmental Effects That Cannot be Avoided, Irreversible Impacts, and Statement of Overriding Considerations.

CHAPTER 8

Chapter 8 provides a mitigation monitoring and reporting program that summarizes the environmental issues, the significant mitigation measures, and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures.

CHAPTER 9

Chapter 9 outlines persons preparing the EIR and sources utilized in the Analysis.

APPENDICES

Following the text of this *Draft EIR*, several appendices and technical studies have been included as reference material.

ENVIRONMENTAL REVIEW PROCESS

Pursuant to CEQA Guidelines §15082, the Notice of Preparation (NOP) for the Proposed Project was circulated for review and comment on October 3, 2012 and circulated for a 30-day comment period ending November 1, 2012. Tulare County RMA received five agency comments on the NOP. Comments were received from the following agencies, individuals, and/or organizations:

- Dave Singleton, Program Analyst, Native American Heritage Commission (Oct. 9, 2012)
- Allison Shuklian, Environmental Health Specialist, Tulare County Health & Human Services Agency (Oct. 23, 2012)
- David Deel Associate Transportation Planner, Caltrans District 6 (Oct. 30, 2012 - Ref. No. 2135-IGR/CEQA 6-TUL-137-22.22 +/-)
- Joy Isaacson, Waste Management Specialist, Permitting & Assistance Branch Waste Permitting, Compliance & Mitigation Division, CalRecycle (Oct. 30, 2012)
- David Warner, San Joaquin Valley Air Pollution Control District, Central Region, (Nov. 1, 2012 - District CEQA Ref. No. 2012 0634)

A copy of the NOP is included in **Appendix A**, including copies of letters received in response to the NOP.

Consistent with CEQA Guidelines Section 15103, “Responsible and Trustee Agencies, and the Office of Planning and Research shall provide a response to a Notice of Preparation to the Lead Agency within 30 days after the receipt of the notice. If they fail to reply within 30 days with either a response or a well justified request for additional time, the Lead Agency may assume that none of those entities have a response to make and may ignore a late response.”⁸

A Scoping Meeting was duly noticed in a newspaper of general circulation (Visalia Times-Delta) and held on November 1, 2012. No comments were received during this meeting.

Section 15093 of the State CEQA Guidelines requires decision-makers to balance the benefits of a proposed project against any unavoidable adverse environmental effects of the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, then the decision-makers may adopt a statement of overriding considerations, finding that the environmental effects are acceptable in light of the project’s benefits to the public.

⁸ 2012 CEQA Guidelines, Section 15103

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As noted in CEQA Guidelines Section 15105 (a), a Draft EIR that is submitted to the State Clearinghouse shall have a minimum review period of 45 days, unless a shortened review period is approved for exceptional circumstances (CEQA, Section 15205(d)). This Draft EIR received approval from OPR for a shortened 30-day review, based on severe time constraints with regard to obtaining financing. This *Draft EIR* will be circulated publicly for comment on March 7, 2013. Following completion of the 30-day public review period ending April 5, 2013, staff will prepare responses to comments and a *Final EIR* will be prepared. The *Final EIR* will then be forwarded to the County of Tulare Planning Commission for consideration of certification. Notwithstanding an appeal to the County of Tulare Board of Supervisors, a Notice of Determination will then be filed with the County Tulare County Clerk and also forwarded to the State of California, Office of Planning and Research.

REFERENCES

2012 CEQA Guidelines